

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

TRUSTEES OF THE SUBURBAN TEAMSTERS )  
OF NORTHERN ILLINOIS WELFARE AND )  
PENSION FUNDS, )  
Plaintiffs, )  
v. ) No. 14 C 1903  
FEENEY EXCAVATING, INC., )  
an Illinois corporation, )  
and HERBERT J. FISHBURN, Individually ) Magistrate Judge Martin  
Defendants. )  
Judge Wood

**MOTION FOR DEFAULT JUDGMENT IN SUM CERTAIN**

NOW COMES the Plaintiff, TRUSTEES OF THE SUBURBAN TEAMSTERS OF NORTHERN ILLINOIS WELFARE AND PENSION FUND, by and through its attorney, JOHN J. TOOMEY, ARNOLD AND KADJAN, and pursuant to FRCP 55 move for judgment in sum certain as stated in this Complaint and the supporting Affidavits attached hereto. In support of its Motion, Plaintiffs state as follows:

1. Suit was filed on March 18, 2014 for collection of delinquent contributions plus attorneys' fees, costs and interest under 29 U.S.C. 1132(g)(2).
2. Service upon FEENEY EXCAVATING, INC., an Illinois corporation was made on the Defendant on March 25, 2014 and a copy of the proof of service was filed with the court on April 3, 2014.
3. Service upon HERBERT J. FISHBURN, Individually was made on the Defendant on March 25, 2014, and a copy of the proof of service was filed with the court on April 3, 2014.

4. More than 21 days have passed without any response to the Complaint by Defendants, so that Defendants are now in default.

5. As supported by the attached Affidavits, the sums due on the Complaint are:

\$6,256.68	Pension audit
\$5,176.21	Welfare audit
\$12,851.89	Defaulted Pension Fund installment note payments
\$15,121.15	Defaulted Welfare Fund installment note payments
\$925.00	Attorneys fees
<u>\$504.00</u>	Court costs
\$40,834.93	

WHEREFORE, Plaintiff prays for:

1. Entry of judgment against Defendant, FEENEY EXCAVATING, INC., an Illinois corporation on Count I of the Complaint in the amount of \$12,861.89 and against FEENEY EXCAVATING, INC., an Illinois corporation on Count II of the Complaint and HERBERT FISHBURN, Individually, on Count III of the Complaint, jointly and severally, and in favor of Plaintiffs, TRUSTEES OF THE SUBURBAN TEAMSTERS OF NORTHERN ILLINOIS WELFARE AND PENSION FUNDS in the amount of \$27,973.04.

TRUSTEES OF THE SUBURBAN TEAMSTERS  
OF NORTHERN ILLINOIS WELFARE AND  
PENSION FUNDS

s/John J. Toomcy  
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Dated: May 9, 2014